

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO.2225 OF 2007

The Commissioner, Nashik Municipal Corporation, Nashik	.. Appellant
v/s.	
The State of Maharashtra and others	.. Respondents

Mr. V.A. Gangal for the Appellant.
Mr. M.S. Karnik for the respondent Nos.2 to 12.
Ms. G.P. Mulekar, Assistant Government Pleader for the State.

**CORAM : SWATANTER KUMAR, C.J. &
J.P. DEVADHAR, J.**

DATED : 21ST NOVEMBER, 2007

P.C.

The present first appeal is directed against the judgment and order dated 31st January, 2006, passed by the learned IInd Adhoc Additional District Judge, Nashik. The appropriate Government acquired the land by issuing notification under section 4 of the Land Acquisition Act on 29th

May, 1999. The Collector granted compensation with all statutory benefits to which the claimants were entitled to. A reference under section 18 of the Land Acquisition Act was made wherein the claimants had claimed compensation at the rate of Rs.2100 per sq.mtr. The reference was answered on the pleadings of the parties. The learned reference court framed the following issues:

1. Whether the reference is within limitation?
2. Do the claimants prove that the compensation awarded by the Special Land Acquisition Officer is inadequate?
3. Are the claimants entitled to enhanced compensation? If yes, what shall be the quantum?
4. What order and Award?

2. The learned reference court after considering the evidence on record, hearing the arguments raised by the parties and the sale instances relied upon, granted compensation to the claimants at the rate of [Rs.830.40](#) per sq. mtr.

3. As the land was acquired for the Nashik Municipal Corporation, it has preferred the present appeal challenging the fact that the compensation awarded by the reference court at the rate of [Rs.830.40](#) per sq.mtr. is excessive and is not based upon the evidence on record. On the other hand, the cross-

objections have also been filed by the claimants praying for further enhancing the amount.

4. The thrust of the submissions on behalf of the Corporation is that, there is apparent error in the impugned order in as much as the part of the compensation in regard to the loss of the grapes garden amounting to Rs.3,10,780/- has already been paid by the State to the claimants, but the reference court has once again directed payment of the amount of Rs. 3,10,780/- towards loss of grapes garden. In fact, there is no serious challenge raised before us to the judgment of the reference court on merits. It is primarily on this calculation the dispute has been raised. The learned counsel appearing for the cross-objectors fairly agrees that the compensation in regard to the loss of grapes garden has already been paid to the claimant and he does not press this claim for repayment and concedes to the objections raised by the appellants limited to that extent.

5. We have already noticed that there is no serious challenge raised before us either by cross-objectors or by the appellants to the extent of above clarification. Resultantly, both, appeal and cross-objections are disposed of. However, we clarify that the enhanced compensation payable to the claimant as per the reference court order be paid by excluding therefrom

the amount of Rs.3,10,780/- as also the statutory relief granted pursuant to the said amount of Rs.3,10,780/-

6. In the light of this, cross-objections are dismissed as withdrawn as prayed.

CHIEF JUSTICE

J.P. DEVADHAR, J.